

1 ANDRÉ BIROTTE JR.  
United States Attorney  
2 SANDRA R. BROWN  
Assistant United States Attorney  
3 Chief, Tax Division  
ANDREW T. PRIBE (CA SBN: 254904)  
4 Assistant United States Attorney  
Room 7211, Federal Building  
5 300 North Los Angeles Street  
Los Angeles, California 90012  
6 Telephone: (213) 894-6551  
Facsimile: (213) 894-0115  
7 Email: andrew.t.pribe@usdoj.gov

8 Attorneys for United States of America

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10 UNITED STATES DISTRICT COURT  
11 CENTRAL DISTRICT OF CALIFORNIA  
12 EASTERN DIVISION

13 UNITED STATES OF AMERICA, ) Case No. EDCV 12-01553-VAP(OPx)  
14 )  
Petitioner, ) ~~[PROPOSED]~~ ORDER TO SHOW CAUSE  
15 )  
vs. )  
16 )  
KATHLEEN A. O'BRIEN, )  
17 )  
Respondent. )  
18 )  
\_\_\_\_\_ )

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20 Upon the Petition and supporting Memorandum of Points and  
21 Authorities, and the supporting Declaration to the Petition, the  
22 Court finds that Petitioner has established its *prima facie* case  
23 for judicial enforcement of the subject Internal Revenue Service  
24 ("IRS" and "Service") summons. See United States v. Powell, 379  
25 U.S. 48, 57-58, 85 S.Ct. 248, 13 L.Ed.2d 112 (1964); see also  
26 Crystal v. United States, 172 F.3d 1141, 1143-1144 (9<sup>th</sup> Cir.  
1999); United States v. Jose, 131 F.3d 1325, 1327 (9<sup>th</sup> Cir.  
27 1997); Fortney v. United States, 59 F.3d 117, 119-120 (9<sup>th</sup> Cir.  
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1 1995) (the Government's *prima facie* case is typically made  
2 through the sworn declaration of the IRS agent who issued the  
3 summons); accord, United States v. Gilleran, 992 F.2d 232, 233  
4 (9<sup>th</sup> cir. 1993).

5 **THEREFORE, IT IS ORDERED** that Respondent appear before this  
6 District Court of the United States for the Central District of  
7 California in **Courtroom No. 2, on January 14, 2013, at 1:30**  
8 **p.m. (Eastern Division)**

9 ■ Brown Federal Building and United States Courthouse  
10 3470 Twelfth Street, Riverside, California 92501

11 and show cause why the testimony and production of books, papers,  
12 records and other data demanded in the subject Internal Revenue  
13 Service summons should not be compelled.

14 **IT IS FURTHER ORDERED** that copies of this Order, the Petition,  
15 Memorandum of Points and Authorities, and accompanying  
16 Declaration be served promptly upon Respondent by any employee of  
17 the Internal Revenue Service or by the United States Attorney's  
18 Office, by personal delivery, or by leaving copies of each of the  
19 foregoing documents at the Respondent's dwelling or usual place  
20 of abode with someone of suitable age and discretion who resides  
21 there, or by certified mail.

22 **IT IS FURTHER ORDERED** that within ten (10) days after service upon  
23 Respondent of the herein described documents, Respondent shall  
24 file and serve a written response, supported by appropriate sworn  
25 statements, as well as any desired motions. If, prior to the  
26 return date of this Order, Respondent files a response with the  
27 Court stating that Respondent does not desire to oppose the  
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1 relief sought in the Petition, nor wish to make an appearance,  
2 then the appearance of Respondent at any hearing pursuant to this  
3 Order to Show Cause is excused, and Respondent shall be deemed to  
4 have complied with the requirements of this Order.

5 **IT IS FURTHER ORDERED** that all motions and issues raised by the  
6 pleadings will be considered on the return date of this Order.  
7 Only those issues raised by motion or brought into controversy by  
8 the responsive pleadings and supported by sworn statements filed  
9 within ten (10) days after service of the herein described  
10 documents will be considered by the Court. All allegations in  
11 the Petition not contested by such responsive pleadings or by  
12 sworn statements will be deemed admitted.

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14 DATED: This 29TH day of NOVEMBER, 2012

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17 HONORABLE VIRGINIA A. PHILLIPS  
18 United States District Judge  
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